

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Intermediate Care Facilities for Persons with
Developmental Disabilities—Public Facilities
Reimbursement Methodology
(LAC 50:VII.32965-32969)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:VII.32965-32969 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for state-operated intermediate care facilities for persons with developmental disabilities (ICFs/DD) and established payments using a formula that established per diem rates at the Medicare upper payment limit for these services (*Louisiana Register*, Volume 29, Number 11). Upon submission of the corresponding State Plan amendment to the Centers for Medicare and Medicaid Services for review and approval, the department determined that it was also necessary to establish provisions in the Medicaid State Plan governing the reimbursement methodology for quasi-public ICFs/DD. The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for public ICFs/DD to establish a transitional Medicaid reimbursement rate for community homes that are being privatized (*Louisiana Register*, Volume 36, Number 8). This Emergency Rule also adopted all of the provisions governing reimbursements to state-owned and operated facilities and quasi-public facilities in a codified format for inclusion in the *Louisiana Administrative Code*. The department promulgated an Emergency Rule which amended the August 1, 2010 Emergency Rule to revise the provisions governing transitional rates for public facilities (*Louisiana Register*, Volume 37, Number 6). The department promulgated an Emergency Rule which amended the July 1, 2011 Emergency Rule to clarify the provisions for facilities serving a high concentration of medically fragile individuals (*Louisiana Register*, Volume 37, Number 10). This Emergency Rule is being promulgated to continue the provisions of the October 20, 2011 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective February 18, 2012, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for public intermediate care facilities for persons with developmental disabilities.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care

Subpart 3. Intermediate Care Facilities for Persons with Developmental Disabilities

Chapter 329. Reimbursement Methodology

Subchapter C. Public Facilities

§32965. State-Owned and Operated Facilities

A. Medicaid payments to state-owned and operated intermediate care facilities for persons with developmental disabilities are based on the Medicare formula for determining the routine service cost limits as follows:

1. calculate each state-owned and operated ICF/DD's per diem routine costs in a base year;
2. calculate 112 percent of the average per diem routine costs; and
3. inflate 112 percent of the per diem routine costs using the skilled nursing facility (SNF) market basket index of inflation.

B. Each state-owned and operated facility's capital and ancillary costs will be paid by Medicaid on a "pass-through" basis.

C. The sum of the calculations for routine service costs and the capital and ancillary costs "pass-through" shall be the per diem rate for each state-owned and operated ICF/DD. The base year cost reports to be used for the initial calculations shall be the cost reports for the fiscal year ended June 30, 2002.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:0000 (January 2012).

§32967. Quasi-Public Facilities

A. Medicaid payment to quasi-public facilities is a facility-specific prospective rate based on budgeted costs. Providers shall be required to submit a projected budget for the state fiscal year beginning July 1.

B. The payment rates for quasi-public facilities shall be determined as follows:

1. determine each ICF/DD's per diem for the base year beginning July 1;
2. calculate the inflation factor using an average CPI index applied to each facility's per diem for the base year to determine the inflated per diem;
3. calculate the median per diem for the facilities' base year;
4. calculate the facility's routine cost per diem for the SFY beginning July 1 by using the lowest of the budgeted, inflated or median per diem rates plus any additional allowances; and
5. calculate the final approved per diem rate for each facility by adding routine costs plus any "pass through" amounts for ancillary services, provider fees, and grant expenses.

C. Providers may request a final rate adjustment subject to submission of supportive documentation and approval by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:0000 (January 2012).

§32969. Transitional Rates for Public Facilities

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Secretary

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A. Effective August 1, 2010, the department shall establish a transitional Medicaid reimbursement rate of \$302.08 per day per individual for a public ICF/DD community home that is transitioning to a private facility, provided that the community home meets the following criteria. The community home:

1. shall have a fully executed Cooperative Endeavor Agreement (CEA) with the Office for Citizens with Developmental Disabilities for the private operation of the facility;

2. shall have a high concentration of medically fragile individuals being served, as determined by the department;

- a. for purposes of these provisions, a medically fragile individual shall refer to an individual who has a medically complex condition characterized by multiple, significant medical problems that require extended care;

3. incurs or will incur higher existing costs not currently captured in the private ICF/DD rate methodology; and

4. shall have no more than six beds.

B. The transitional Medicaid reimbursement rate shall only be for the period of transition, which is defined as the term of the CEA or a period of three years, whichever is shorter.

C. The transitional Medicaid reimbursement rate is all-inclusive and incorporates the following cost components:

1. direct care staffing;
2. medical/nursing staff, up to 23 hours per day;
3. medical supplies;
4. transportation;
5. administrative; and
6. the provider fee.

D. If the community home meets the criteria in §32969.C and the individuals served require that the community home has a licensed nurse at the facility 24 hours per day, seven days per week, the community home may apply for a supplement to the transitional rate. The supplement to the rate shall not exceed \$25.33 per day per individual.

E. The total transitional Medicaid reimbursement rate, including the supplement, shall not exceed \$327.41 per day per individual.

F. The transitional rate and supplement shall not be subject to the following:

1. inflationary factors or adjustments;
2. rebasing;
3. budgetary reductions; or
4. other rate adjustments.

G. Effective July 1, 2011, the transitional rate for public facilities over 50 beds that are privatizing shall be restored to the rates in effect on January 1, 2009 for a six to eight bed facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:0000 (January 2012)

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.